

Honolulu Star-Bulletin

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EDITOR

THURSDAY, OCTOBER 17, 1912

Believe me, every man has his secret sorrows, which the world knows not; and oftentimes we call a man cold when he is only sad.—Longfellow.

PUBLIC HEALTH VICTORIOUS

The people win. Public health is victorious. Modern sanitation triumphs.

The supreme court of the territory of Hawaii handed down a decision yesterday that is a Magna Charta of community rights and public guardianship.

Formally a decision affirming the validity of the act passed by the last legislature known as the "revolving fund act," it is far more than merely this. It is a document so broad in its scope and so advanced in the theories of power vested in the board of health which it advances as morally and legally binding, that its utterance by the supreme court at this time affects all Hawaii.

The decision of the justices, quoted from briefly in the STAR-BULLETIN yesterday and at greater length elsewhere today, may be summarized as follows:

The right of the board of health to order low-lying or insanitary lands to be filled at the expense of the owner, or in case the owner refuses to act, by the government at the owner's expense, resulting in the sale of the land to satisfy the lien imposed thereon for the cost of the improvement, is upheld by a unanimous decision of the justices.

The STAR-BULLETIN sees in the decision handed down yesterday two great points. First, that the public authorities are definitely upheld in their plans for reclaiming insanitary land, and secondly, that, as the law is interpreted by the supreme court, the work may be done with a minimum of technical protest and legal delay.

The court's affirmation of the "police power" of government authorities is emphatic:

"There should be," reads the decision, "no doubt as to the authority of the legislature, in the interest of public health and the exercise of the police power, to impose upon the owner of land which has become or threatens to become a menace to health, through natural causes or by human agency, the duty of putting it in proper condition by the making of improvements which will render it sanitary. . . . We believe it to be well established that the legislature may impose or assume a duty on the part of property-owners to do certain things with reference to their property for the protection of the public irrespective of whether the performance of such duty will financially benefit the owner, and provide that in case he fails to do the necessary thing the public, through government instrumentality, may do what is necessary and assess the property upon which the work is to be done with the entire cost thereof without reference to the matter of benefits. It would be the police power—the power to conserve the health and safety of the community—that would be called into action."

Further, the court states:

"It is contended that as the land-owner may be compelled to submit to the sale of his land and to accept in lieu of his land an amount of money equal to its assessed value, which may be less than its actual value, constitutes a taking of his property without just compensation. The answer is that the lawful exercise of the police power may incidentally result in the taking or destroying of private property without any compensation being made to the owner. . . . It may be noted that the statute provides that in any event the land-owner shall receive an amount not less than that of the assessed value of the land, so that in some cases it may happen that the territory would not be able to recoup the full cost of the improvement. In this respect the statute is more liberal than is necessary."

Language could not be more emphatic; could not be clearer on the subject of the pre-eminent right of public health and public safety.

While affirming the power of the government, the court also clears the way for speedy action. One exceedingly important part of the decision is that the supreme justices deny the land-owner a right to carry his case before a jury. Under the act, the owner may appeal from the opinion of the board of health condemning his land as insanitary. This appeal is filed in the circuit court by the superintendent of public works, and the court thereupon appoints an impartial board of three persons to determine whether the land is deleterious to public health. The supreme court, in affirming the validity of the act yesterday, upholds the provision in it which declares that the findings of this board of survey "shall be final and conclusive upon all parties in interest."

The decision settles a point long disputed in this territory,—whether there is appeal from an opinion of the health authorities upon a question of expert judgment,—and settles it in the negative. The constituted health authorities themselves are the final court of appeal.

There can be no dragging of these cases before juries, no useless and exasperating delays, no attempts to set at naught public officials

charged with the duty of guarding the health of Hawaii.

The STAR-BULLETIN sees also in this decision an admirable spirit of observing the essential points and disregarding mere technicalities. For instance, one of the points upon which the law was attacked was that the notice given that the land should be filled in went too far in containing a brief recommendation as to what method should be pursued, the plaintiff claiming that he should be allowed to abate the alleged nuisance in such manner as he sees fit so long as it is done effectually. To this claim the court answers:

"Where the party notified pays no attention to the notice and takes no steps whatever to abate the nuisance, he is not in a position to claim that he is absolved from taking any action because the notice served upon him was too precise."

There is not a paragraph, there is not a sentence in the lengthy decision that does not breathe the spirit of high aim and unselfish community work. It is more than a decision,—it is a sermon on the duty of public officials and the duty of private citizens. The STAR-BULLETIN regards this decision as a splendid utterance on the part of the supreme justices, an utterance vital with a recognition of the health needs of this city and this territory.

Under this decision, with this standard of progress so ably upheld by the highest court of the territory of Hawaii, the great work of building in Honolulu the model city of the Pacific may go forward uninterrupted. To the work, citizens!

COLLEGE OF HAWAII DEVELOPMENT

Auspicious is the beginning of its first year in the new building for the young College of Hawaii. Mention is made in another column of this paper today of the many undergraduate activities rapidly developing, in which the faculty members are taking a keen and personal interest.

No college becomes great on the teaching of text-book lore merely. That wise father who asked his son "Who are your teachers?" and after that "What are your books?" recognized the essence of liberal education. He recognized the importance of tutors who put personality into their lessons.

The right kind of college spirit is the spirit of friendliness between students and faculty, both directing their energies toward building up traditions of lofty aim and practical achievement. Undergraduate activities are important because they bring the students together on a common basis of worthy effort, and develop in the individual pupil a sense of responsibility to the institution which is furnishing him with an education. Out of this consciousness grows the incentive to effort that he may deserve the confidence placed in him.

The College of Hawaii is on the threshold of great things. Its traditions are not yet the growth of generations, as are the traditions of Harvard, Yale, Dartmouth or Williams. There was a period in American college life when the professor or instructor was looked upon as the natural enemy of the student. The period has happily passed away, to be succeeded by the realization that the best results for true education are accomplished by frank and cordial relationship. It is pleasant to note that this spirit is shown in the organization of activities at the College of Hawaii.

Dr. E. S. Goodhue's kindly philosophy, coupled with an unusual gift for putting his abounding personality into his writing, has brought him more than local fame. The mainland critics are recognizing the work of this poet-philosopher of the Pacific. The STAR-BULLETIN will begin next Saturday a series of short papers by Dr. Goodhue under the title "Old Doc's Talk." It will be a weekly feature worth while.

Governor Frear's choice of H. K. Bishop for superintendent of public works has been a remarkably popular one. The chief executive has strengthened his administration and added materially to the confidence of the people that this important office is to be run on strictly public service lines.

Some of the mainland Progressives seem to have more trouble in getting on the ballot than in getting nominated or elected.

Now that the world's baseball championship is settled, we'll have to go back to politics again.

And Bishop is a kamaaina name, too!

PERSONALITIES

A. FERNANDEZ, Jr., of Paia, Maui, is in the city on a short business trip.

MR. AND MRS. J. W. CUNNINGHAM have given up their house on Alewa Heights and are living at the Royal Hawaiian.

PERCY RAMSDEN, an expert insurance man of San Francisco, has arrived to take charge of the fire insurance department of the Trent Trust Company.

R. DE B. LAYARD, formerly British consul here, was met by Mr. Ogilvie at Kobe, Japan, where he is now stationed, and wishes to be kindly remembered to all friends in Honolulu.

H. C. COBURN, the Hawaiian labor expert of Visayan recruiting depot for labor-loving Filipinos, came back to Cebu on Friday, after stirring Manila to boiling point for a few days.—Cebu Chronicle.

MISS CAROLINE MORRIS will pass through Honolulu on the Manchuria and during her stay here will lecture at the Kiloheana Art League rooms on her experience in Japan. The time will be announced later.

CAPTAIN SOULE, who has just completed his two-year contract with the Lualaba company, is now attached to the staff of the Parker Ranch. He was formerly the proprietor of the Kiah before it became the Clarion.

"MOTHER" ROBERTSON has been very ill for the last few days and the members of her family are keeping in close touch with the sick chamber. She is the mother of Mrs. F. A. Schaefer and Judge A. G. M. Robertson.

R. L. OGILVIE, a veteran public school teacher in Hawaii, returned in the China from a tour on both sides of the world. He spent five months in Japan and six months in England and reports having had a glorious time but finding no climate anywhere like that of Hawaii.

The Hilo Masonic Hall Association, Inc., has amended its articles of association, increasing its capitalization limit from \$50,000 to \$100,000. Amending articles also have been filed by the Algarobus Feed Co., Ltd., decreasing the par value of its shares from \$100 to \$50 per share.

DEATH THIS MORNING OF MRS. C. L. ENGLISH

The death of Mrs. Clara Louise English occurred this morning shortly after midnight in the Pacific Sanitarium. Mrs. English had been sick about ten days, and death was due to congestion of the lungs, followed by an acute attack of asthma.

Mrs. English is the widow of Frank M. English, who was killed in a railroad accident in Colorado some time ago, and the step-daughter of Mr. Allan Herbert. Dr. St. D. G. Walters was her brother-in-law.

Funeral services will probably be held this afternoon.

"TITANIC" TRIP COST HIM \$2

There is at least one man in New York City who doesn't know the Titanic sank. He is John Forrest, seventy-three, of No. 210 East One Hundred and Fourteenth street. He was arrested recently as a professional mendicant. When he was brought before Magistrate House he asserted he came over from London a few weeks ago on the Titanic. He was fined \$2.

The autumn Grand Prix over the Longchamps course at Paris was won by Herman Duryea's bay colt Shannon. The race was for \$23,600.

In the first hostilities of the Balkan war the Turkish forces repulsed an attack of the Montenegrins. France, Austria and Russia are working for peace, but England is holding back.

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NEW TODAY

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ROUGH HANDLING FOR AGITATOR

(Continued from Page 7)

trounced by several attaches connected with the stockade. Later in the evening the Filipino again loomed upon the quiet of Allen street, this time accompanied by several friends. The subject of restricted intercourse with Filipinos still under the care and protection of the planters was renewed.

Another fight ensued in which the Filipinos produced long iron bars or blacksmith tongs and started to clean up the attendants. A call for reinforcements, however, put the Filipinos to rout and Rafolo, who was charged with being a ringleader, was placed under arrest, and this morning given sentence following his conviction.

Attorney Prosser, representing C. Brewer & Company, the agents for the Boston Block, was a visitor at police court this morning in the capacity as consul for a Chinese, Tom Chin, who, as janitor at the Fort street building was charged by officers with violating a city and county ordinance which prohibits the sweeping of rubbish upon a sidewalk or into a public thoroughfare.

Prosser appeared rather late upon the scene, but Prosecutor Brown consented to postpone a complete hearing of the case until tomorrow. The Boston Block interests propose to fight the matter in the lower court as a complete denial of the charge instituted by Special Officer Vierra, who has charge of the cleaning of the municipal highways.

A Hawaiian accused of using too strenuous methods of quieting the boisterous conversation coming from a female dweller in the Magoon block was sentenced to pay a fine of \$25 and costs upon a conviction of assault and battery. The woman in the case sat through the trial displaying a pair of darkly tinted optics, alleged as having been discolored by the defendant. A large slice of the populace from Kakaako was drawn to the trial through friendship for the opposing factions.

NO ALIMONY FOR WIVES WHO WILL NOT COOK

LOS ANGELES, Sept. 24.—"If a woman will not cook for her husband she cannot expect alimony if she applies for divorce."

This was the published announcement which confronted various mis-mated women, who went into Judge Monroe's "divorce mill" department of the Superior Court today to have their matrimonial bonds sundered. Judge Monroe issued the dictum after he had heard the cases of several women who were applying for divorce, and whose husbands testified in defense that the wives would not cook for them. In every case alimony was denied.

Another pronouncement issued by the Judge was that a man could not prevent a wife having things "charged" to his account simply by publishing a notice disclaiming further responsibility, because he was tired of supporting a family.

One woman who wrote her husband threatening letters because he was a few days late with a regular installment of alimony was cut off from further allowances as punishment for her impatience.

JAPANESE AIRMAN HURLED TO DEATH

CORNING, N. Y., Oct. 6.—M. Kondo, a young Japanese, was thrown to his death from a plunging airplane held fast by the fans of a windmill at Savona this morning. The aviator was thrown out before he had time to stop his motor.

Kondo was making his first flight in the east, and his first flight in a machine of the Kirkham type. He was staying close to the ground in consequence. A large barn on a farm cut off his view of the surrounding country. Unfamiliar with the nature of the territory in which he was flying, Kondo attempted to round an angle of the barn at close quarters.

He sent his machine soaring upward and at the same time attempted to turn the biplane to one side, but the lower plane and wing caught fast in an arm of the mill. With one side of the airplane held fast and the motor driving ahead at full speed, the machine wrecked itself in a second. The aviator was thrown out at the first plunge, striking upon his head and fracturing his skull. He lived but three minutes. Kondo learned to fly at the Curtiss school in Santa Barbara.

Frederick Marks of Stony Point, N. Y., has sworn not to shave until Colonel Roosevelt is elected president.

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Flag Raising at Liliuokalani School, Kaimuki

Eight months ago Kaimuki district was without the educational facilities of a public school. Yesterday two hundred and ninety-eight enrolled pupils sang "America" and "Red, White and Blue" at the dedication exercises of the Liliuokalani School. Comparatively few people in Honolulu realize the enormous strides this district is making. In addition to the Liliuokalani School, we have the Honolulu School for Boys, the Catholic School for Girls and the Industrial School for Girls. Kaimuki is not lacking in social advantages. Besides these, Kaimuki is well supplied with modern improvements, such as gas, electric lights, telephone service, artesian water and a ten-minute car service.

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